

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

MARC VEASEY, *et al.*,

Plaintiffs,

v.

RICK PERRY, *et al.*,

Defendants.

Civil Action No. 2:13-cv-193 (NGR)  
(Consolidated Action)

**UNITED STATES' ADVISORY RE: PLAINTIFFS' JOINT MOTION TO UNSEAL**

The United States respectfully notifies the Court of the failure of negotiations concerning Plaintiffs' Joint Motion to Unseal Documents and Testimony (ECF No. 503). Following yesterday's status conference, the United States provided all exhibits and expert reports that raised a legislative privilege issue to counsel for the legislators. Counsel for the United States and counsel for the Legislators conferred and reached an agreement in principle by which the assertions of legislative privilege would be withdrawn with regard to those exhibits, depositions, and expert reports at issue. Counsel agreed to discuss the tentative agreement with their clients.

Yesterday evening, counsel for the Legislators informed the United States that his clients declined to consent to unsealing any document or testimony over which an assertion of a state legislative privilege had been made. The United States sent an email to confirm the Legislators' position. *See Email from Daniel Freeman to Arthur D'Andrea (Aug. 28, 2014) (Ex. 1).* Counsel for the Legislators responded by stating that he disagreed with the United States' characterization. The United States is, therefore, unclear as to the precise nature of the Legislators' position.

The United States remains ready to review each document at issue with counsel for the Legislators. So long as the Legislators' continue to adhere to their blanket refusal to withdraw any assertion of privilege, that exercise is not likely to be fruitful for the parties and the Court

To conserve judicial resources, the United States proposes that this Court review a small portion of the documents at issue to determine the extent to which any may be unsealed.

Specifically, the United States respectfully requests that the Court determine whether the nine documents submitted as exhibits to the Plaintiffs' Joint Motion to Unseal may be unsealed.

Based on the Court's determination, the United States will, if appropriate, then seek to recommence exhibit-by-exhibit review with counsel for the Legislators with respect to the remainder of the documents at issue, in light of the guidance that this Court provides.

The following documents were submitted as exhibits to Plaintiffs' Joint Motion to Unseal:

- Exhibit 3: SB 362 Talking Points (PL 205)
- Exhibit 4: SB 14 Bill Summary (PL 234)
- Exhibit 5: Deposition of Bryan Hebert (excerpts)
- Exhibit 6: Email from Bryan Hebert to Noe Barrois (Jan. 13, 2011) (PL 267)
- Exhibit 7: Email from Bryan Hebert to Jason Baxter (Jan. 22, 2011) (PL 272)
- Exhibit 8: Deposition of Senator Dan Patrick (excerpts)
- Exhibit 9: Deposition of Senator Troy Fraser (excerpts)
- Exhibit 10: Deposition of Senator Tommy Williams (excerpts)
- Exhibit 11: Representative Patricia Harless Talking Points (PL 255)

Date: August 28, 2014

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 28, 2014, I served a true and correct copy of the foregoing via the Court's ECF system on the following counsel of record:

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